



General Assembly

February Session, 2006

Raised Bill No. 666

LCO No. 3213

03213_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES
AND CERTAIN CODE VIOLATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-12 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) If any building or structure has been erected, constructed,
4 altered, converted or maintained, or any building, structure or land
5 has been used, in violation of any provision of this chapter or of any
6 bylaw, ordinance, rule or regulation made under authority conferred
7 hereby, any official having jurisdiction, in addition to other remedies,
8 may institute an action or proceeding to prevent such unlawful
9 erection, construction, alteration, conversion, maintenance or use or to
10 restrain, correct or abate such violation or to prevent the occupancy of
11 such building, structure or land or to prevent any illegal act, conduct,
12 business or use in or about such premises. Such regulations shall be
13 enforced by the officer or official board or authority designated
14 therein, who shall be authorized to cause any building, structure, place
15 or premises to be inspected and examined and to order in writing the
16 remedying of any condition found to exist therein or thereon in

17 violation of any provision of the regulations made under authority of
18 the provisions of this chapter or, when the violation involves grading
19 of land, the removal of earth or soil erosion and sediment control, to
20 issue, in writing, a cease and desist order to be effective immediately.
21 The owner or agent of any building or premises where a violation of
22 any provision of such regulations has been committed or exists, or the
23 lessee or tenant of an entire building or entire premises where such
24 violation has been committed or exists, or the owner, agent, lessee or
25 tenant of any part of the building or premises in which such violation
26 has been committed or exists, or the agent, architect, builder,
27 contractor or any other person who commits, takes part or assists in
28 any such violation or who maintains any building or premises in
29 which any such violation exists, shall be fined not less than [ten] one
30 hundred nor more than [one] five hundred dollars for each day that
31 such violation continues; but, if the offense is wilful, the person
32 convicted thereof shall be fined not less than [one] five hundred
33 dollars nor more than [two hundred and fifty] one thousand dollars
34 for each day that such violation continues, or imprisoned not more
35 than ten days for each day such violation continues or both; and the
36 Superior Court shall have jurisdiction of all such offenses, subject to
37 appeal as in other cases. Any person who, having been served with an
38 order to discontinue any such violation, fails to comply with such
39 order within ten days after such service, or having been served with a
40 cease and desist order with respect to a violation involving grading of
41 land, removal of earth or soil erosion and sediment control, fails to
42 comply with such order immediately, or continues to violate any
43 provision of the regulations made under authority of the provisions of
44 this chapter specified in such order shall be subject to a civil penalty
45 not to exceed two thousand five hundred dollars, payable to the
46 treasurer of the municipality. In any criminal prosecution under this
47 section, the defendant may plead in abatement that such criminal
48 prosecution is based on a zoning ordinance or regulation which is the
49 subject of a civil action wherein one of the issues is the interpretation
50 of such ordinance or regulations, and that the issues in the civil action

51 are such that the prosecution would fail if the civil action results in an
 52 interpretation different from that claimed by the state in the criminal
 53 prosecution. If the court renders judgment for such municipality and
 54 finds that the violation was wilful, the court shall allow such
 55 municipality its costs, together with reasonable attorney's fees to be
 56 taxed by the court. The court before which such prosecution is pending
 57 may order such prosecution abated if it finds that the allegations of the
 58 plea are true.

59 (b) Any fine imposed by a municipality pursuant to the provisions
 60 of subsection (a) of this section, and remaining unpaid for a period of
 61 sixty days after its due date shall constitute a lien upon the real estate
 62 against which the fine was imposed from the date of such fine,
 63 provided a notice of violation is recorded in the land records and
 64 indexed in the name of the property owner no later than thirty days
 65 after the fine was imposed. Each such lien may be continued, recorded
 66 and released in the manner provided by the general statutes for
 67 continuing, recording and releasing property tax liens. Each such lien
 68 shall be effective from the time of the recording of the lien on the land
 69 records, shall take precedence over all other liens and encumbrances,
 70 except taxes, and may be enforced in the same manner as property tax
 71 liens. Each title insurance company issuing a policy for property in this
 72 state shall exclude coverage for loss or damage because of a valid
 73 existing lien or a future unrecorded lien imposed under this
 74 subsection.

75 (c) Any municipality imposing a fine pursuant to subsection (a) of
 76 this section shall maintain a current record of all properties with
 77 respect to which such fine remains unpaid in the office of the
 78 municipal clerk. Such record shall be available for inspection by the
 79 public.

80 Sec. 2. Section 8-12a of the general statutes is repealed and the
 81 following is substituted in lieu thereof (*Effective October 1, 2006*):

82 (a) Any municipality may, by ordinance adopted by its legislative

83 body, establish penalties for violations of zoning regulations adopted
84 under section 8-2 or by special act. The ordinance shall establish the
85 types of violations for which a citation may be issued and the amount
86 of any fine to be imposed thereby and shall specify the time period for
87 uncontested payment of fines for any alleged violation under any such
88 regulation. No fine imposed under the authority of this section may
89 exceed [one] two hundred fifty dollars for each day a violation
90 continues. Any fine shall be payable to the treasurer of the
91 municipality.

92 (b) The hearing procedure for any citation issued pursuant to this
93 section shall be in accordance with section 7-152c except that no zoning
94 enforcement officer, building inspector or employee of the municipal
95 body exercising zoning authority may be appointed to be a hearing
96 officer.

97 (c) Any zoning enforcement officer who issues a citation pursuant to
98 an ordinance adopted under this section shall be liable for treble
99 damages in any civil action if the court finds that such citation was
100 issued frivolously or without probable cause.

101 (d) Any fine imposed by a municipality pursuant to the provisions
102 of subsection (a) of this section, and remaining unpaid for a period of
103 sixty days after its due date shall constitute a lien upon the real estate
104 against which the fine was imposed from the date of such fine,
105 provided a notice of violation is recorded in the land records and
106 indexed in the name of the property owner no later than thirty days
107 after the fine was imposed. Each such lien may be continued, recorded
108 and released in the manner provided by the general statutes for
109 continuing, recording and releasing property tax liens. Each such lien
110 shall be effective from the time of the recording of the lien on the land
111 records, shall take precedence over all other liens and encumbrances,
112 except taxes, and may be enforced in the same manner as property tax
113 liens. Each title insurance company issuing a policy for property in this
114 state shall exclude coverage for loss or damage because of a valid

115 existing lien or a future unrecorded lien imposed under this
116 subsection.

117 (e) Any municipality imposing a fine pursuant to subsection (a) of
118 this section shall maintain a current record of all properties with
119 respect to which such fine remains unpaid in the office of the
120 municipal clerk. Such record shall be available for inspection by the
121 public.

122 Sec. 3. Section 47a-53 of the general statutes is repealed and the
123 following is substituted in lieu thereof (*Effective October 1, 2006*):

124 (a) Whenever any tenement, lodging or boarding house or any
125 building, structure, excavation, business pursuit, matter or thing in or
126 about such house or the lot on which it is situated, or the plumbing,
127 sewerage, drainage, lighting, paint or ventilation of such house, is, in
128 the opinion of the board of health or other enforcing agency, in a
129 condition which is or in its effect is dangerous or detrimental to life or
130 health, or whenever any tenement, lodging or boarding house in the
131 opinion of the board or enforcing agency, is in violation of the
132 provisions of section 19a-109, the board or other enforcing agency may
133 declare that the same, to the extent specified by the board or other
134 enforcing agency, is a public nuisance. The board or enforcing agency
135 may order such public nuisance to be removed, abated, suspended,
136 altered or otherwise remedied, improved or purified. The board of
137 health or other enforcing agency may also order or cause any tenement
138 house or part thereof, or any excavation, building, structure, sewer,
139 plumbing pipe, paint, passage, premises, ground, matter or thing in or
140 about a tenement, lodging or boarding house or the lot on which such
141 house is situated, to be purified, cleansed, disinfected, removed,
142 altered, repaired or improved.

143 (b) If any order of the board of health or other enforcing agency is
144 not complied with, or not so far complied with as the board or other
145 enforcing agency regards as reasonable, within five days after the
146 service thereof, or within such shorter time as the board or other

147 enforcing agency designates, such order may be executed by the board
 148 or other enforcing agency, through its officers, agents, employees or
 149 contractors. The expense of executing such order, including an amount
 150 not to exceed five per cent of the expense thereof as a service charge
 151 and ten per cent of the expense thereof as a penalty shall be collected
 152 from the owner by an action in the name of the city, borough or town.

153 (c) Any expense of executing an order, including any service charge
 154 and penalty, imposed by the board of health or other enforcing agency
 155 pursuant to the provisions of subsection (b) of this section, and
 156 remaining unpaid for a period of sixty days after its due date shall
 157 constitute a lien upon the real estate against which the expense was
 158 imposed from the date of such expense, provided a notice of violation
 159 is recorded in the land records and indexed in the name of the
 160 property owner not later than thirty days after the expense was
 161 imposed. Each such lien may be continued, recorded and released in
 162 the manner provided by the general statutes for continuing, recording
 163 and releasing property tax liens. Each such lien shall be effective from
 164 the time of the recording of the lien on the land records, shall take
 165 precedence over all other liens and encumbrances, except taxes, and
 166 may be enforced in the same manner as property tax liens. Each title
 167 insurance company issuing a policy for property in this state shall
 168 exclude coverage for loss or damage because of a valid existing lien or
 169 a future unrecorded lien imposed under this subsection.

170 (d) Any board of health or other enforcing agency imposing an
 171 expense, including a service charge and penalty, pursuant to
 172 subsection (b) of this section shall maintain a current record of all
 173 properties with respect to which such expenses remain unpaid in the
 174 office of the municipal clerk. Such record shall be available for
 175 inspection by the public.

176 Sec. 4. Section 47a-58 of the general statutes is repealed and the
 177 following is substituted in lieu thereof (*Effective October 1, 2006*):

178 (a) Any enforcing agency may issue a notice of violation to any

179 person who violates any provision of this chapter or a provision of a
180 local housing code. Such notice shall specify each violation and specify
181 the last day by which such violation shall be corrected. The date
182 specified shall not be less than three weeks from the date of mailing of
183 such notice, provided that in the case of a condition, which in the
184 judgment of the enforcing agency is or in its effect is dangerous or
185 detrimental to life or health, the date specified shall not be more than
186 five days from the date of mailing of such notice. The enforcing agency
187 may postpone the last day by which a violation shall be corrected upon
188 a showing by the owner or other responsible person that he has begun
189 to correct the violation but that full correction of the violation cannot
190 be completed within the time provided because of technical
191 difficulties, inability to obtain necessary materials or labor or inability
192 to gain access to the dwelling unit wherein the violation exists.

193 (b) When the owner or other responsible person has corrected such
194 violation, [he] the owner or other responsible person shall promptly,
195 but not later than two weeks after such correction, report to the
196 enforcing agency in writing, indicating the date when each violation
197 was corrected. It shall be presumed that the violation was corrected on
198 the date so indicated, unless a subsequent inspection by the enforcing
199 agency again reveals the existence of the condition giving rise to the
200 earlier notice of violation.

201 (c) Any person who fails to correct any violation prior to the date set
202 forth in the notice of violation shall be subject to a cumulative civil
203 penalty of five dollars per day for each violation from the date set for
204 correction in the notice of violation to the date such violation is
205 corrected, except that in any case the penalty shall not exceed [five]
206 one hundred dollars per day nor shall the total penalty exceed
207 [seventy-five] seven thousand five hundred dollars. The penalty may
208 be collected by the enforcing agency by action against the owner or
209 other responsible person or by an action against the real property. An
210 action against the owner may be joined with an action against the real
211 property.

212 (d) In addition to the penalties specified in this section, the
213 enforcing agency may enforce the provisions of this chapter or a local
214 housing code by injunctive relief pursuant to chapter 916.

215 (e) Any penalty imposed by an enforcing agency pursuant to the
216 provisions of subsection (c) of this section, and remaining unpaid for a
217 period of sixty days after its due date shall constitute a lien upon the
218 real property against which the penalty was imposed from the date of
219 such penalty, provided a notice of violation is recorded in the land
220 records and indexed in the name of the property owner no later than
221 thirty days after the penalty was imposed. Each such lien may be
222 continued, recorded and released in the manner provided by the
223 general statutes for continuing, recording and releasing property tax
224 liens. Each such lien shall be effective from the time of the recording of
225 the lien on the land records, shall take precedence over all other liens
226 and encumbrances, except taxes, and may be enforced in the same
227 manner as property tax liens. Each title insurance company issuing a
228 policy for property in this state shall exclude coverage for loss or
229 damage because of a valid existing lien or a future unrecorded lien
230 imposed under this subsection.

231 (f) Any enforcing agency imposing a penalty pursuant to subsection
232 (c) of this section shall maintain a current record of all properties with
233 respect to which such penalty remains unpaid in the office of the
234 municipal clerk. Such record shall be available for inspection by the
235 public.

236 Sec. 5. Subdivision (10) of subsection (c) of section 7-148 of the
237 general statutes is repealed and the following is substituted in lieu
238 thereof (*Effective October 1, 2006*):

239 (10) (A) Make all lawful regulations and ordinances in furtherance
240 of any general powers as enumerated in this section, and prescribe
241 penalties for the violation of the same not to exceed [one hundred] two
242 hundred fifty dollars, unless otherwise specifically provided by the
243 general statutes. Such regulations and ordinances may be enforced by

244 citations issued by designated municipal officers or employees,
245 provided the regulations and ordinances have been designated
246 specifically by the municipality for enforcement by citation in the same
247 manner in which they were adopted and the designated municipal
248 officers or employees issue a written warning providing notice of the
249 specific violation before issuing the citation;

250 (B) Adopt a code of ethical conduct;

251 (C) Establish and maintain free legal aid bureaus;

252 (D) Perform data processing and related administrative computer
253 services for a fee for another municipality;

254 (E) Adopt the model ordinance concerning a municipal freedom of
255 information advisory board created under subsection (f) of section 1-
256 205 and establish a municipal freedom of information advisory board
257 as provided by said ordinance and said section.

258 Sec. 6. Subsection (b) of section 51-164n of the 2006 supplement to
259 the general statutes is repealed and the following is substituted in lieu
260 thereof (*Effective October 1, 2006*):

261 (b) Notwithstanding any provision of the general statutes, any
262 person who is alleged to have committed (1) a violation under the
263 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-
264 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-
265 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, as amended, 12-292,
266 or 12-326g, as amended, subdivision (4) of section 12-408, subdivision
267 (3), (5) or (6) of section 12-411, section 12-435c, 12-476a, 12-476b, 12-487,
268 13a-71, 13a-107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, as
269 amended, 13a-124, 13a-139, 13a-140, 13a-143b, 13a-247 or 13a-253,
270 subsection (f) of section 13b-42, section 13b-90, 13b-221, 13b-292, 13b-
271 336, 13b-337, 13b-338, 13b-410a, 13b-410b or 13b-410c, subsection (a),
272 (b) or (c) of section 13b-412, section 13b-414, subsection (d) of section
273 14-12, as amended, section 14-20a or 14-27a, subsection (e) of section

274 14-34a, subsection (d) of section 14-35, section 14-43, 14-49, as
 275 amended, 14-50a or 14-58, subsection (b) of section 14-66, as amended,
 276 section 14-66a, 14-66b or 14-67a, subsection (g) of section 14-80,
 277 subsection (f) of section 14-80h, as amended, section 14-97a, 14-100b,
 278 14-103a, 14-105a, 14-106a, 14-106c, 14-146, 14-152, 14-153 or 14-163b, a
 279 first violation as specified in subsection (f) of section 14-164i, section
 280 14-219 as specified in subsection (e) of said section, subdivision (1) of
 281 section 14-223a, as amended, section 14-240, 14-249, as amended, or 14-
 282 250, as amended, subsection (a), (b) or (c) of section 14-261a, section 14-
 283 262, 14-264, 14-267a, 14-269, 14-270, as amended, 14-275a, 14-278 or 14-
 284 279, subsection (e) of section 14-283, as amended, section 14-291, 14-
 285 293b, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a,
 286 subdivision (1), (2) or (3) of section 14-386a, section 15-33, subsection
 287 (a) of section 15-115, section 16-256, 16-256e, 16a-15, as amended, or
 288 16a-22, subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145,
 289 as amended, 17a-149, 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-
 290 137 or 17b-734, subsection (b) of section 17b-736, section 19a-30, 19a-33,
 291 19a-39 or 19a-87, subsection (b) of section 19a-87a, section 19a-91, 19a-
 292 105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-
 293 297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-
 294 425, 19a-502, 20-7a, as amended, 20-14, 20-158, 20-231, 20-257, 20-265 or
 295 20-324e, subsection (a) of section 20-341, section 20-341l, 20-597, 20-608,
 296 20-610, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, as amended, 21-
 297 76a, 21a-21, 21a-25, 21a-26 or 21a-30, subsection (a) of section 21a-37,
 298 section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-
 299 79, as amended, section 21a-85, 21a-154, 21a-159, 21a-201, 21a-211, 22-
 300 13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-38, 22-39, as
 301 amended, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-
 302 89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-318a, 22-
 303 320h, 22-324a, 22-326 or 22-342, subsection (b) or (e) of section 22-344,
 304 section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or 22a-
 305 246, subsection (a) of section 22a-250, as amended, subsection (e) of
 306 section 22a-256h, subsection (a) of section 22a-381d, section 22a-449, as
 307 amended, 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or (b) of

308 section 23-65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-
 309 49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128,
 310 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230,
 311 26-294, 28-13, 29-6a, 29-109, 29-161y, 29-161z, 29-198, 29-210, 29-243, 29-
 312 277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, as amended, 31-3, 31-
 313 10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-
 314 28, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k,
 315 31-52, 31-52a or 31-54, subsection (a) or (c) of section 31-69, section 31-
 316 70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134, subsection (i) of section
 317 31-273, as amended, section 31-288, 36a-787, 42-230, 45a-450, 45a-634 or
 318 45a-658, subdivision (13) or (14) of section 46a-54, as amended, section
 319 46a-59, 46b-22, 46b-24, 46b-34, 46b-38dd, 46b-38gg, 46b-38kk, 47-34a,
 320 47-47, 49-8a, 49-16 or 53-133, subsection (a) or (b) of section 53-211, or
 321 section 53-212a, 53-249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-
 322 321, 53-322, 53-323, 53-331, 53-344 or 53-450, or (2) a violation under the
 323 provisions of chapter 268, or (3) a violation of any regulation adopted
 324 in accordance with the provisions of section 12-484, 12-487 or 13b-410,
 325 or (4) a violation of any ordinance, regulation or bylaw of any town,
 326 city or borough, except violations of building codes and the health
 327 code, for which the penalty exceeds ninety dollars but does not exceed
 328 two hundred fifty dollars, unless such town, city or borough has
 329 established a payment and hearing procedure for such violation
 330 pursuant to section 7-152c, shall follow the procedures set forth in this
 331 section.

332 Sec. 7. Section 51-164p of the general statutes is repealed and the
 333 following is substituted in lieu thereof (*Effective October 1, 2006*):

334 (a) Notwithstanding any provision of any special act, local law or
 335 the general statutes to the contrary, any violation of any ordinance,
 336 regulation or bylaw of any town, city or borough, except violations of
 337 building codes and the health code, for which the penalty does not
 338 exceed ninety dollars shall be an infraction as provided for in sections
 339 51-164m and 51-164n, as amended by this act.

340 (b) Notwithstanding any provision of any special act, local law or
341 the general statutes, any violation of any ordinance, regulation or
342 bylaw of any town, city or borough, except violations of building codes
343 and the health code, for which the penalty exceeds ninety dollars but
344 does not exceed two hundred fifty dollars shall be a violation as
345 provided for in sections 51-164m and 51-164n, as amended by this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	8-12
Sec. 2	<i>October 1, 2006</i>	8-12a
Sec. 3	<i>October 1, 2006</i>	47a-53
Sec. 4	<i>October 1, 2006</i>	47a-58
Sec. 5	<i>October 1, 2006</i>	7-148(c)(10)
Sec. 6	<i>October 1, 2006</i>	51-164n(b)
Sec. 7	<i>October 1, 2006</i>	51-164p

Statement of Purpose:

To improve enforcement of local codes and to allow for the effective collection of accrued and unpaid fines associated with violations of such codes by authorizing municipalities to place liens on real property for such accrued and unpaid fines and to increase the maximum fine for violations of municipal regulations and ordinances.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]